

ORIGINAL

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June 27, 2002

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DCV 20554

**Re: Review of the Section 251 Unbundling
Obligations of the Incumbent Local CC Exchange
Carriers docket No. 01-338**

**Deployment of Wireline Services
Offering Advanced Telecommunications CC
Capability docket No. 98-147**

Dear Ms Dortch:

Pursuant to Section 1.1206(b)(1) of the Commission's Rules, Network Telephone Corporation submits this notice of written presentation and summary of verbal ex parte comments in these two dockets. On June 27, 2002, the attached documents were distributed to and discussed with Jeremy Miller, Julie Veach, Christine Newcomb, and John Vu, all of the FCC Wireline Competition Bureau.

Also, as required by Section 1.1206(b)(1), an original and two copies of this ex parte notification are provided for inclusion in the public record of each of the above-referenced proceedings.

Sincerely yours,

Brent E. McMahan
Vice President-Regulatory
& Governmental Affairs

SUMMIZATION OF EX PARTE COMMENTS ON:

**Review of the Section 251 Unbundling
Obligations of the Incumbent Local
Exchange Carriers**

CC docket No. 01-338

**Deployment of Wireline Services
Offering Advanced Telecommunications
Capability**

CC docket No. 98-147

Made to Jeremy Miller, Julie Veach, Christine Newcomb, and John Vu, all of the FCC Wireline Competition Bureau. Those attending from Network Telephone were:

Brent E. McMahan	VP-Regulatory & Governmental Affairs
Rob St. Pierre	Director-Technology Group
Doug Taylor	Director-Product Development
Wendell Nelson	Director-Network Audit
Margaret Ring	Director-Regulatory
Mike Dunne	Senior Technology Engineer
Craig Black	Director-Network Planning

The Triennial Review and the so-called Broadband NPRM alarm Network Telephone.

We are a regional Integrated Communications Provider (ICP) headquartered in the Southeastern US, NTC offers its small business customers a popular package of VoBB telecom service featuring DSL service intertwined with local telephone lines, voice telecom features, long distance, VPN, and World Wide Services like web-design and hosting.

We have raised and invested over \$300 million dollars in our 600 employees, our nine-state voice & data network roll-out, and our advanced back office support systems on the basis of being able to interconnect to and use the unbundled network elements from the incumbent telephone company, i.e., BellSouth. Our package of products and services are extremely popular with small businessmen, many of whom have never heard from or seen a BellSouth representative until recently. For example, Network Telephone will exceed 100,000 lines in service in August 2002.

Changing the UNE rules now, and/or arbitrarily deciding certain new parts of the incumbent's network are proscribed from competitive use by virtue of terming them "information service," betrays Congressional intent in the '96 Telecom Act, unnecessarily caves into a spurious RBOC argument, and dooms our business plan.

See attached PowerPoint presentation for outline of our remarks. Our verbal presentation focused on the following points:

Network Telephone has a successful business plan anchored on an innovative but stable new telecom technology, i.e., VoBB.

Extensive experience with migrating customers to this VoBB technology confirms our testing by our technology lab, and with our vendors, that our technical solution is viable, stable, and trouble-free.

We can offer cheaper prices than BellSouth can because we use less expensive technology.

The Telecommunications Act of 1996 is working.

We depend on the stability of the provisions of the 1996 Telecommunications Act. We need its mandated provisions for interconnection, for unbundling, and for TELRIC based pricing in order for our company to continue to innovate and grow. There are viable CLECs out there; we are not the only one. We have survived the telecom meltdown, and plan to execute our business plans. We need FCC support for the provisions of the '96 Telecom Act.

UNE-P stimulates aggressive entrance into new markets and fosters faster competitive pressure on incumbent prices and older technologies.

With UNE-P, Network Telephone can enter new markets without enormous investment in new switches and networks. We always start with our data switches (DSLAMs) anyway, which we must install before we enter any market to provide the xDSL services. Once we can determine a market's attractiveness, we then expand our network in that market by building our voice network.

Thus, UNE-P becomes a transition for eventual full network presence. In this way, UNE-P promotes, not hinders, technological advances and lower prices.

Rates for small business access lines have fallen by as much as twenty-five percent in markets where CLECs like Network Telephone have entered. And BellSouth has accelerated – not delayed – technological advances like DSLAM installation in response to our packaged offerings.

BellSouth's introduced its Key Customer program first into markets where CLECs were present. It has installed hundreds of DSLAMs in markets to compete with CLEC offerings like Network Telephone's. BellSouth small business customers have seen lower prices (25 percent is a greater discount than that offered resalers), strong competitive packages for services, accelerated introduction of new technologies, and better treatment from BellSouth in every market where Network Telephone and other CLECs have entered. Small businessmen and women now have choices, and they love it.

High-cap UNEs like DS-1 (T-1) and DS-3 are absolutely necessary for NTC to reach our customers and to connect our collocated switches.

Network Telephone has increased its use of T-1 UNEs (or DS-1) substantially in recent months as prices for DSLAM hardware have declined, as competitive offerings have increased customers' bandwidth expectations, and as our footprint has widened. Without

continued access to these UNEs, Network Telephone would be doomed to an older and less feature-rich technology; to a smaller market presence, and, ultimately, to failure.

DS-3 UNEs are our preferred method of connecting our collocated switches. There are virtually no substitutes, even in major metros like Atlanta, where CAPs' fiber connects traffic aggregation points (major businesses, not small businesses) to its POPs – not BellSouth central office to central office. Smaller communities lack any alternative to this type interoffice transport.

TELRIC is the right pricing scheme for costing the incumbent's network elements and interconnection.

The US Supreme Court has destroyed any arguments otherwise. TELRIC has inflation adjustment factors, cost of money factors, and new investment factors - what else do the RBOCs need?

State PSC/PUCs are absolutely the right place – closer to the markets and customers – for pricing of UNEs, for expansion of UNE list, and for performance measurement of ILEC behavior.

It is not practical for the FCC to examine in detail every market for competitive alternatives to UNEs. Such a granular approach, which is the only true method to determine rightly the status of alternative facilities, would have to be done at the PSC level – and, even then, market-by-market.

Furthermore, UNEs should include all the loop piece parts, such as Network Interface Devices, the ILECs normally provide their own retail. The burden of proof for eliminating UNEs should lie with those who want to change the list.

There is no “old wires/new wires” division in incumbent plant facilities.

All telephone network enhancements must seamlessly integrate with existing telephone plant – they have to, because the residual base still forms the vast bulk of the outside plant facilities serving existing customer with voice telephony. Newer technologies, then, like xDSL services, ride over the same wires and multiplexed facilities as voice – all traffic is converted and reconverted from electrical signals to data bits and back in an integrated fashion. To talk of walling off newer broadband facilities to competitors is not only specious, but even meaningless.



Network Telephone

June 27, 2002


NETWORK TELEPHONE™
VOICE • DATA • VIDEO
Communication has evolved.

Network Telephone Overview

- Founded 1998
- Experienced Management Team & Equity Sponsors
- Southeastern “Super-Regional” Integrated Communications Provider (ICP) in Tier 2, 3 & 4 Focus
- Small, Medium-Sized Business Focus
- Direct Sales Driven
- Network Deployment
- In-region customer acquisition strategy
- Integrated & Scalable Back-Office



Experienced Management

Ray Russenberger
22 years experience

**Founder, Chairman, CEO,
President**

**CEO, Network USA
Vice Chairman, A+ Network
Board Member, MetroCall**

Vincent Oddo
20 years experience

Chief Operating Officer

**EVP, CIO, Gabriel/TriVergent
COO, Conxus**

Charles Emling
19 years experience

Chief Admin. Officer

**President, Network USA
President, A+ Network**

Mark Miller
20 years experience

EVP – Engineering

**VP Carrier Operation, Empower
Sr. VP, Engineering & Strategic
Planning, US LEC**

Danyelle Kennedy
9 years experience

Chief Financial Officer

**Audit Supervisor, O'Sullivan Hicks
Patton Audit Senior, Arthur
Anderson**

Tony Atchley
19 years experience

Sr. VP - Sales

**Sun Microsystems, Reynolds &
Reynolds**



Communication has evolved.



Experienced Management

Caron Sjoberg
20 years experience

**Sr. VP - Customer Care, Product
Development, Marketing & Direct
Marketing**

Network USA

Mitch Dantin
13 years experience

VP - Order Management

Network USA

Craig Holloway
12 years experience

VP - Operations Support Systems

Sprint, Ernst & Young

Brad Howell
10 years experience

VP - Information Technology

**BlueStar, Broadwing,
Southwestern Bell**

Mike Martin
22 years experience

VP - Engineering

US LEC

Brent McMahan
25 years experience

VP - Regulatory

**Williams Communications,
BellSouth**

Margaret Ring
20 years experience

Director - Regulatory

**Florida Public Service
Commission**



Communication has evolved.



Equity Sponsors

Financing to date - \$318 million

Desai Capital Management

Lehman Brothers

Lucent Technologies

Spectrum Equity

Windpoint Partners

Onset Ventures

CenturyTel

Morgan Keegan

Mellon Ventures

Ray Russenberger

Best of Breed Partners

Lucent Technologies
Bell Labs Innovations



PARADYNE



Marconi



netopia.

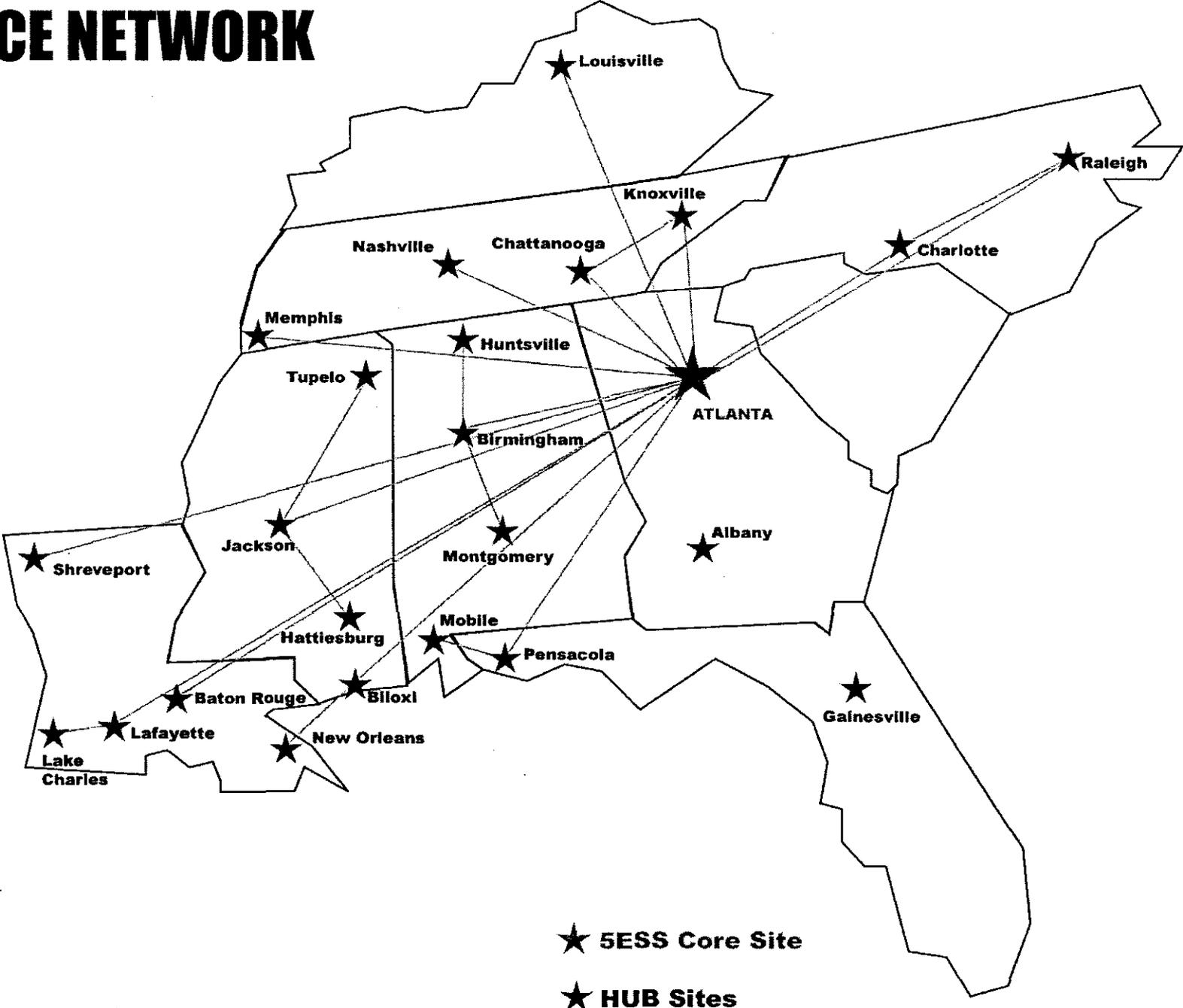
BELLSOUTH



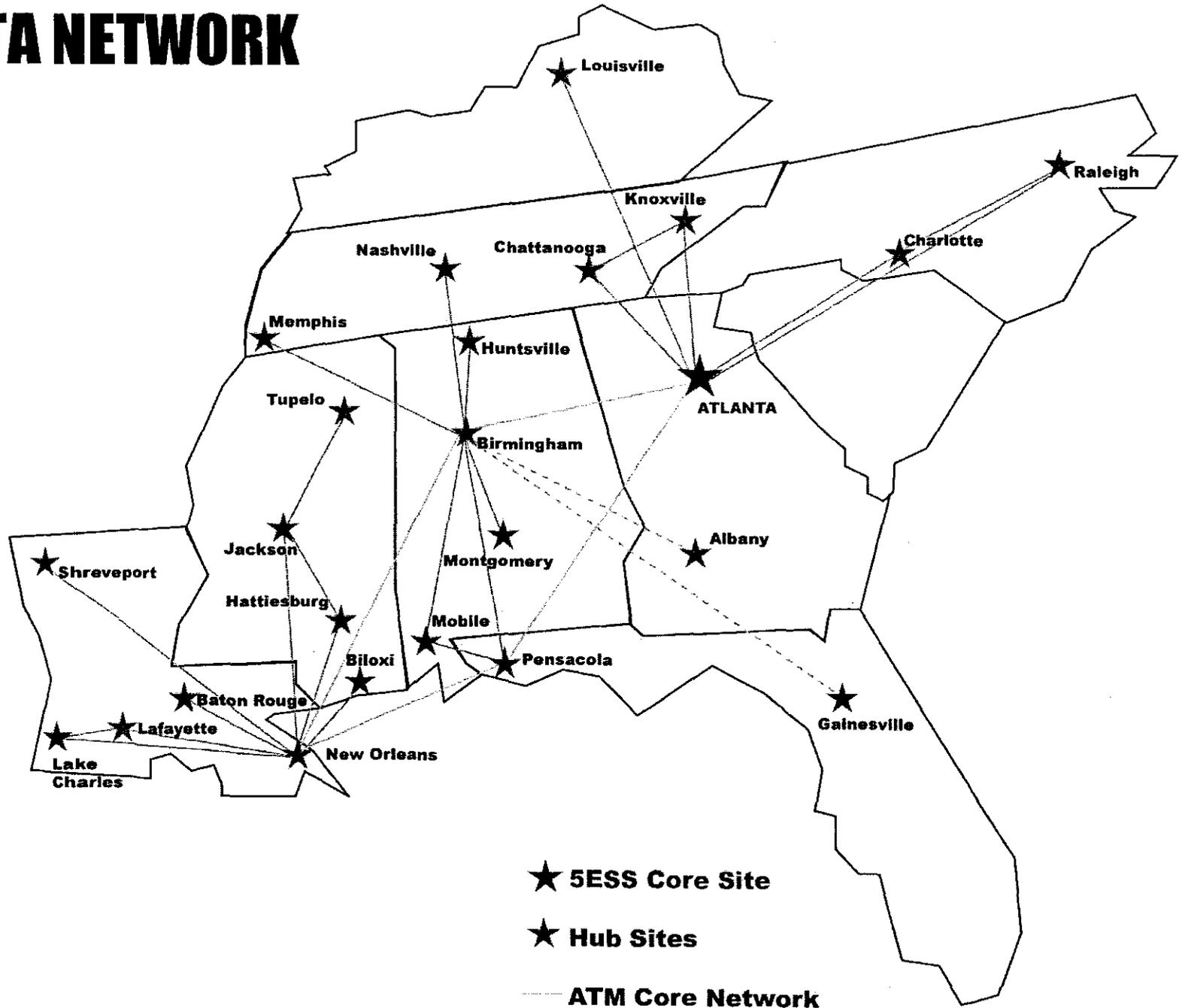
ORACLE



VOICE NETWORK



DATA NETWORK



Tennessee

Chattanooga
Collierville
Jackson
Knoxville
Lebanon
Memphis
Nashville

170+ Data Switches
25 Voice Switches

Kentucky

Louisville

North Carolina

Cary
Charlotte
Gastonia
Raleigh

Mississippi

Biloxi
Columbus
Gulfport
Hattiesburg
Jackson
Laurel
Meridian
Oxford
Pascagoula
Tupelo
Vicksburg

South Carolina

Charleston
Columbia
Greenville

Louisiana

Alexandria
Baton Rouge
Bossierd
Denham Springs
Houma
Kenner
Lafayette
Lake Charles
Monroe
Morgan City
New Iberia
New Orleans
Shreveport
Slidell

Alabama

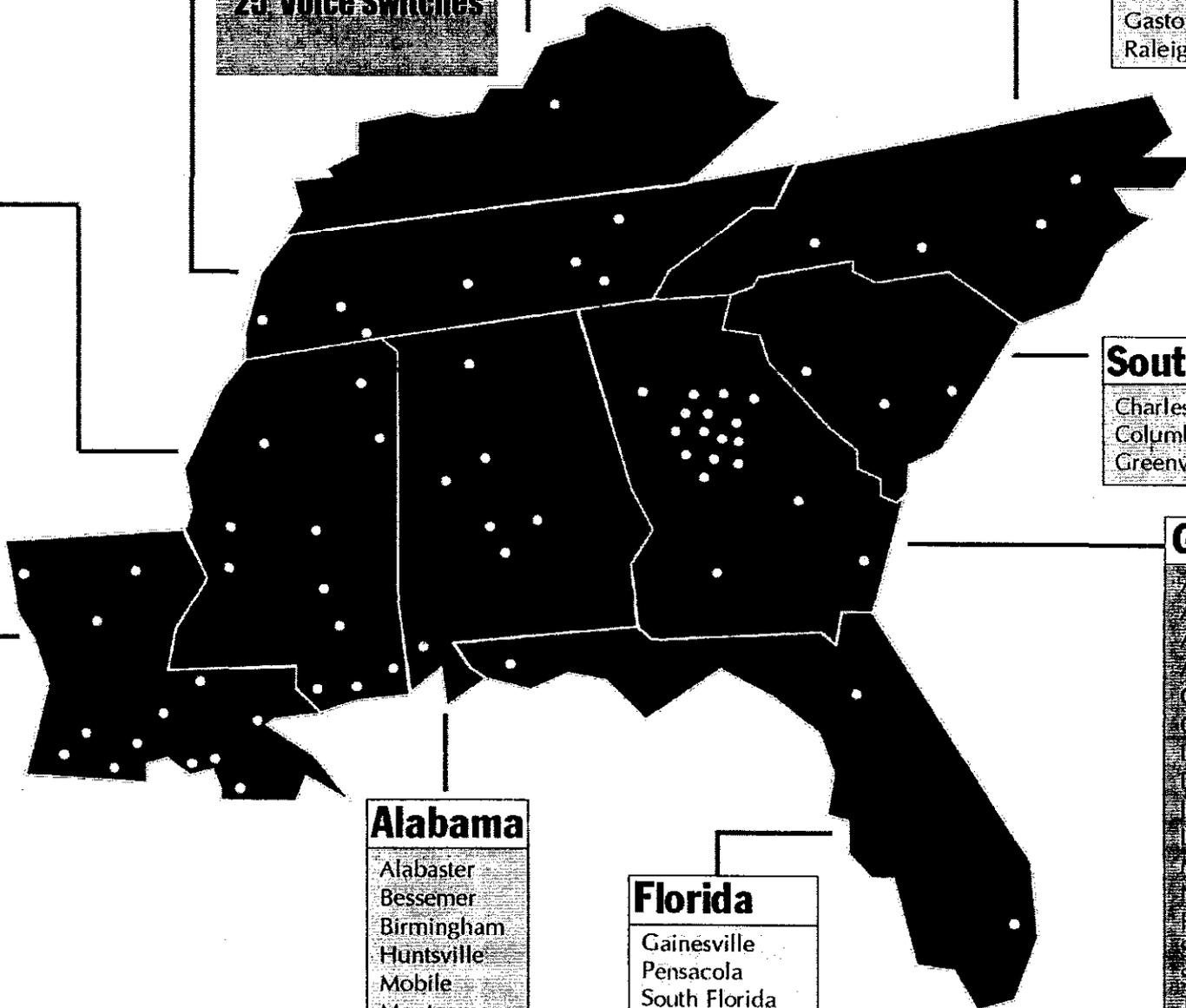
Alabaster
Bessemer
Birmingham
Huntsville
Mobile
Montgomery
Tuscaloosa

Florida

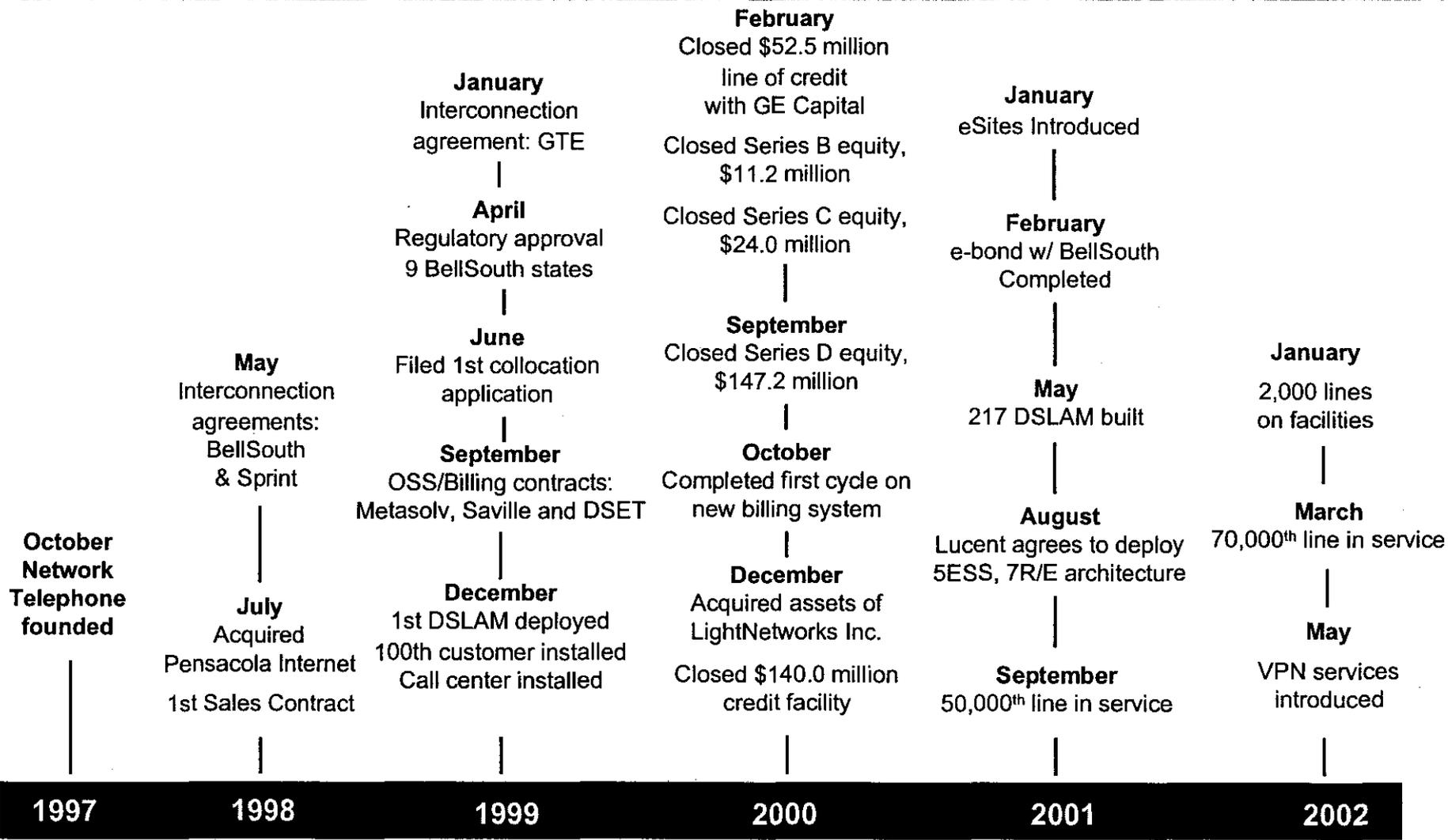
Gainesville
Pensacola
South Florida
(indirect market)

Georgia

Albany
Alpharetta
Atlanta
Augusta
Chamblee
Conyer
Duluth
Dunwoody
Jonesboro
Lilburn
Marietta
Norcross
Roswell
Savannah
Smyrna
Tucker
Woodstock



Network Telephone Timeline



May 2002 Key Performance Indicators (KPIs)

Key Performance Indicators	2002					2002 Projected (Model w/ Adjustments)											
	Jan.	Feb.	Mar.	Apr.	May	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.
Lines In Service – Total Rollup	62,727	67,163	72,656	78,291	83,617	61,670	66,300	72,068	78,062	83,880	89,931	95,932	101,964	108,296	114,828	121,475	127,268
Line Churn %	2.22%	1.80%	1.51%	1.40%	1.40%*	1.50%	1.50%	1.40%	1.40%	1.30%	1.30%	1.30%	1.30%	1.30%	1.30%	1.30%	1.30%
Lines in Pipeline	4,508	6,770	7,327	8,218	8,275	5,624	6,777	7,087	6,908	7,220	7,248	7,358	7,740	8,025	8,226	7,445	8,764
DSL TroubleT (Bell Outage)/Cust	1.40%	0.90%	0.99%	1.27%	0.84%	1.10%	1.00%	0.90%	0.90%	0.90%	0.90%	0.90%	0.90%	0.90%	0.90%	0.90%	0.90%
Voice TroubleT (Bell Outage)/Cust	2.09%	1.36%	1.31%	1.61%	1.64%	1.60%	1.50%	1.40%	1.40%	1.40%	1.40%	1.40%	1.40%	1.40%	1.40%	1.40%	1.40%
PSC Complaints - ILEC	-	0.5	1.0	0.5	-	1.0	1.0	1.5	1.5	2.0	2.0	2.5	2.5	2.5	2.5	2.5	3.0
PSC Complaints - NTC or Customer	1.0	1.5	2.0	0.5	-	2.0	2.0	3.5	3.5	3.5	4.0	4.0	4.5	4.5	5.0	5.5	5.5
Customer Care – % Calls Handled	98.8%	95.3%	99.0%	99.0%	98.3%	98.0%	98.0%	98.0%	98.0%	98.0%	98.0%	98.0%	98.0%	98.0%	98.0%	98.0%	98.0%
Customer Care – Avg Answer Speed	:10	:14	:10	:14	:15	:10	:10	:10	:10	:10	:10	:10	:10	:10	:10	:10	:10

*Actual Churn of 1.74% includes lines related to Wholesale Channel that were delayed in being submitted by DSLI

*Chart above is partial representation of May KPIs.



Where We Are Going

Salient Facts

- Achieve a quarter of a million lines in billing by year-end 2003.
- Revenue to exceed \$110 million by year-end 2003.
- EBITDA positive by year-end 2003.
- We have NO DEBT.
- NTC will continue to innovate, especially in VoBB technologies, even as we refine our packages of telecom services and products to remain competitive.

FCC Triennial Review Comments

- Unbundled Network Elements are the bedrock of competitive telecommunications services and are the foundation to growth in facility-based competition.
- Current FCC UNE regime comports with the Telecom Act. States need continued authority to set prices and enlarge the UNE base.
- Network Telephone uses a broad array of UNEs in its business plan, which is VoBB and ATM network-based.
- Network Telephone primarily uses 2-wire ADSL, UDC/UDL, and 4-wire DS-1 UNE loops and extensively use DS-3 UNE for IOF.



FCC Triennial Review Comments

- Network Telephone finds no alternatives to UNE loops to reach small business customers.
- Network Telephone built its 170+ collocated DSLAMs and 24 voice switches on a UNE-connectivity strategy fostered by existing FCC and state PSC rulings. Without that connectivity benefit, COLOs make little economic sense.
- Network Telephone's investigative initiatives found few alternatives to ILEC Interoffice Facilities (IOF). In larger markets, it was discovered that CAPs lack ILEC C.O. to C.O. routes. UNE transport engenders facility-based competitive carriers like Network Telephone.

FCC Triennial Review Comments

- Network Telephone uses UNE-P, including switching as a transition strategy in new markets. Network Telephone cuts over customers to its own switching facilities after build-out.
- UNE-P has enabled Network Telephone to expand its footprint rapidly without additional – and largely unavailable – capital.
- State PSCs should determine whether ILEC broadband switches should be unbundled. UNEs should NOT reflect any false ‘old wires/new wires’ concepts – all modern ILEC networks are integrated and multiplexed over all routes.
- FCC actions to limit UNEs are premature, and hasty. The burden of proof should lie with those who want to limit UNEs.

Summary

- The 1996 Telecommunications Act is working. Congress designed the legislation to stimulate competition on the incumbents' networks – ubiquitous and irreplaceable as they are. Competitive carriers like Network Telephone have raised capital, built ancillary and innovative networks, and grown customers by the thousands – all based on the Act's features. Small business customers love the attention.
- Incumbent carriers still have, by any measure, more than 90 percent market share, have responded with unprecedented investment in competing broadband technologies, and lowered prices on their previously-monopoly products and services. Small business owners are hearing from their RBOC reps for the first time.
- Undoing the UNE regime would end all these benefits, and destroy a generation of regulatory and legislative actions designed to promote technological advances and product/services innovations.